

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
AT SHERMAN**

CASE NO.: 4:24-cv-00659

BRIAN KITTS,

Plaintiff,

v.

TCB TEXAS HOLDINGS LLC and ANDREA
SUE HUNDLEY,

Defendants.

COMPLAINT FOR COPYRIGHT INFRINGEMENT

(INJUNCTIVE RELIEF DEMANDED)

Plaintiff BRIAN KITTS by and through his undersigned counsel, brings this Complaint against Defendants TCB TEXAS HOLDINGS LLC and ANDREA SUE HUNDLEY for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff BRIAN KITTS (“Kitts”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Kitts' original copyrighted Work of authorship.

2. Brian Kitts is an architectural photographer with 20 years experience capturing spaces for architecture and design clients in addition to luxury real estate. With a residential portfolio of homes ranging up to \$35 million and beyond Kitts’ work is regularly featured in online publications including Architectural Digest, The Wall Street Journal, and The Robb Report.

3. Defendant TCB TEXAS HOLDINGS LLC (“TCB”) upon information and belief owns the internet website Design Morsels (“Morsels”) located at the URL www.designmorsels.com (the “Website”). The Website is the brainchild of Andrea Hundley, a home decor enthusiast that shares DIY information for home design. The Website features pop-up ads and links to purchase products that Hundley recommends and uses in her interior design.

4. Defendant ANDREA SUE HUNDLEY (“Hundley”) is upon information and belief the operator of the Website and the owner of TCB.

5. Defendants TCB and Hundley are collectively referred to herein as “Defendants.”

6. Kitts alleges that Defendants copied Kitts’s copyrighted Work from the internet in order to advertise, market and promote their business activities. Defendants committed the violations alleged in connection with Defendants' business for purposes of advertising and promoting sales to the public in the course and scope of the Defendants' business.

JURISDICTION AND VENUE

7. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

8. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

9. Defendants are subject to personal jurisdiction in Texas.

10. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendants engaged in infringement in this district, Defendants reside in this district, and Defendants are subject to personal jurisdiction in this district.

DEFENDANTS

11. TCB Texas Holdings LLC is a Texas Limited Liability Company, with its principal place of business at 2266 Monitor Street, Dallas, Texas, 75206, and can be served by serving its Registered Agent, Andrea Hundley, 5314 Morningside, Dallas, Texas, 75206

12. Andrea Sue Hundley is an individual residing in the city of Dallas, Dallas county, state of Texas, and can be served at 5355 Willis Avenue, Dallas, Texas, 75206.

THE COPYRIGHTED WORK AT ISSUE

13. In 2023, Kitts created the photograph entitled “3636Baker_BKV_051023_017,” which is shown below and referred to herein as the “Work”.



14. Kitts registered the Work with the Register of Copyrights on September 21, 2023 as part of a group registration. The group registration was assigned registration number VA 2-366-184. The Certificate of Registration is attached hereto as **Exhibit 1**.

15. At all relevant times Kitts was the owner of the copyrighted Work at issue in this case.

INFRINGEMENT BY DEFENDANTS

16. Defendants have never been licensed to use the Work at issue in this action for any purpose.

17. On a date after the Work at issue in this action was created, but prior to the filing of this action, Defendants copied the Work.

18. On or about February 15, 2024, Kitts discovered the unauthorized use of his Work on the Website in an article entitled “How High Should You Hang the Mirror in A Bathroom? (with photos).”

19. Defendants copied Kitts' copyrighted Work without Kitts' permission.

20. After Defendants copied the Work, they made further copies and distributed the Work on the internet to promote the sale of goods and services as part of their interior design DIY blog and retail sale business.

21. Defendants copied and distributed Kitts' copyrighted Work in connection with Defendants' business for purposes of advertising and promoting Defendants' business, and in the course and scope of advertising and selling products and services.

22. Kitts' Work is protected by copyright but is not otherwise confidential, proprietary, or trade secrets.

23. Defendants committed copyright infringement of the Work as evidenced by the documents attached hereto as **Exhibit 2**.

24. Kitts never gave Defendants permission or authority to copy, distribute or display the Work at issue in this case.

25. Kitts notified Defendants of the allegations set forth herein on May 14, 2024 and May 30, 2024. To date, the parties have failed to resolve this matter.

COUNT I
COPYRIGHT INFRINGEMENT

26. Kitts incorporates the allegations of paragraphs 1 through 25 of this Complaint as if fully set forth herein.

27. Kitts owns a valid copyright in the Work at issue in this case.

28. Kitts registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

29. Defendants copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Kitts' authorization in violation of 17 U.S.C. § 501.

30. Defendants performed the acts alleged in the course and scope of its business activities.

31. Defendants' acts were willful.

32. Kitts has been damaged.

33. The harm caused to Kitts has been irreparable.

WHEREFORE, the Plaintiff BRIAN KITTS prays for judgment against the Defendants TCB TEXAS HOLDINGS LLC and ANDREA SUE HUNDLEY that:

- a. Defendants and their officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;
- b. Defendants be required to pay Kitts his actual damages and Defendants' profits attributable to the infringement, or, at Kitts' election, statutory damages, as provided in 17 U.S.C. § 504
- c. Kitts be awarded his attorneys' fees and costs of suit under the applicable statutes sued upon;
- d. Kitts be awarded pre- and post-judgment interest; and
- e. Kitts be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Kitts hereby demands a trial by jury of all issues so triable.

Dated: July 22, 2024

Respectfully submitted,

/s/ Sangheon Han
SANGHEON HAN
sangheon.han@sriplaw.com

SRIPLAW, P. A.
4102 McDuffie Street
Houston, TX 77098
561.404.4350 – Telephone
561.404.4353 – Facsimile

Counsel for Plaintiff Brian Kitts